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EUROPEAN COMMISSION

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Member of the Commission02-324
96-261Brussels, 04.03.04 RECEIVED
J247 MAR - 9 2004Federal Communications Commission
Office of the Secretary

Dear Chairman Powell,

I understand that the Federal Communications Commission will consider at its March 11 meeting an Order in the matter of International Settlements Policy Reform and International Settlement Rates which may address the issue of mobile termination rates.

In its Notice of Proposed Rule Making in this proceeding, the Federal Communications Commission has expressed its concern about the level of "foreign mobile termination rates" and described the primary goal of its policies as the "protection of U.S. consumers from potential harm caused by instances of insufficient competition in the global telecommunications market".

The European Union is also committed to the promotion of competition to guarantee greater choice, quality, innovation, service and lower prices to the consumers, and has the instruments which are required to achieve these goals. In this respect, the entry into force on 25 July 2003 in Europe of a new Regulatory Framework for electronic communications networks and services represents a further step to make competition the key driver in achieving these goals and protecting consumers' interests.

Under this new framework, national regulatory authorities must be granted all the powers they need to address any lack of effective competition that they may identify. European national regulators, using Competition Law methodologies, define markets, identify operators with a significant market power and, when these markets are not prospectively competitive, impose *ex ante* regulation on all undertakings with significant market power, in a process closely monitored by the European Commission.

In February 2003, the European Commission identified a minimum list of relevant product and service markets susceptible of *ex ante* regulation under the new framework, which must be analysed by the European national regulators. This list includes the market for voice call termination on individual mobile networks. Therefore, the EU Regulatory Framework provides the possibility to regulate mobile termination rates.

The Honourable
Michael K. Powell
Chairman
Federal Communications Commission
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As part of the implementation process, the relevant national regulatory authorities have already begun to notify their initial market definitions and assessments of market power, as well as their proposed measures to the European Commission. Under its supervisory powers the Commission will examine and correct the conclusions of the national regulatory authorities, where necessary, including their assessments as to whether a defined market is prospectively competitive and whether undertakings in those markets need to be regulated.

In addition, under the new framework, national regulatory authorities are required to seek agreement on the application of regulatory remedies best suited to address particular types of market failures that they may identify as a result of the above mentioned analyses. The European national regulatory authorities have a suite of regulatory tools at their disposal but must ensure that the obligations imposed on operators with significant market power are based on the nature of the problem identified and are proportionate and justified in the light of the regulatory objectives laid out in the Framework Directive.

The European Commission accords the utmost importance to the correct and timely implementation of this framework. This needs a consistent and co-ordinated effort from all national regulatory authorities and the European Commission in an on-going and dynamic process where the national regulatory authorities, who are closest to the markets, will systematically revisit and adapt *ex ante* regulation in response to market developments. The results to-date of the activities of European national regulators are promising. In particular, average interconnection charges for call termination on the networks of European mobile operators with a significant market power have already decreased substantially as a result of regulatory intervention by EU regulators, as reported in the 9th Report on the Implementation of the EU Electronic Communications Regulatory Package (which shows an average decrease of 15.3%). Moreover, the Commission has already launched infringement proceedings against those Member States which did not adopt appropriate transposition measures within the deadline laid down in the legislation.

The consistent application of the European regulatory framework, which is the responsibility of the European authorities, will ultimately correct any eventual market failure to the benefit of consumers, including in the US, and should be preferred to the adoption by the Federal Communications Commission of any other measure, as already pointed out in the European Communities' submission of 13 February 2003 in this proceeding.

I am writing in similar terms to your fellow Commissioners hoping that they too will agree with me on the need to allow European national regulatory authorities to perform their mission under the supervision of the European Commission and that any outstanding issues will be addressed through a dialogue between regulatory authorities in the EU and the US.

Yours sincerely,

